

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DANIEL, et al.

Atty. Ref.: 3691-618; Confirmation No. 6513

Appl. No. 10/804,202

TC/A.U.

Filed: March 19, 2004

Examiner:

For: FLUSH-MOUNTED SLIDER WINDOW FOR PICK-UP TRUCK

* * * * *

October 26, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION PURSUANT TO 37 CFR §1.47(a)--JOINT INVENTOR REFUSES TO SIGN
DECLARATION**

The instant application was filed with the USPTO on March 19, 2004. A Missing Parts Notice dated June 1, 2004 was received by the undersigned. Unfortunately, only three of the four listed inventors was willing, or able to be reached, to sign an oath/declaration for to the above-identified application. In particular, inventors K. Daniel, R. Himebaugh, and M. Schreiner have signed an oath/declaration, and copies of those signed declarations have been filed herewith. The last inventor, namely A. Billiu, has either refused to sign an oath/declaration or has simply disappeared and has not been reached after diligently attempting same.

Accordingly, applicant hereby petitions under 37 CFR §1.47 to proceed with prosecution of the instant application, even though one of the four inventors refuses to sign.

10/27/2004 EAREGAY1 00000017 10804202

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130.00 NP

Exhibits 1-4 attached hereto are arranged in chronological order in order to show the pertinent facts associated with this matter. The undersigned herein authenticates these document, and proves the facts associated therewith as follows:

Exhibit 1 is an email dated March 18, 2004 indicating that a draft of the instant application together with drawings was sent to the four inventors on March 18, 2004. The text and drawings of the application were attached to this email sent by the undersigned.

The instant application was filed March 19, 2004 with the USPTO, as evidenced by the USPTO documents such as the Notice to File Missing Parts dated June 1, 2004.

Subsequent thereto, it is the understanding of the undersigned that Mr. Billiu left the employment of the assignee (i.e., Guardian Industries Corp.) and that he is no longer employed by Guardian.

Exhibit 2 is letter sent by the undersigned to Mr. Billiu on July 1, 2004 (at his work address), regarding the oath/declaration and assignment for this case. The oath/declaration and assignment were attached to this letter as sent on July 1, 2004. Subsequent to sending this letter, the undersigned learned that Mr. Billiu was no longer employed by Guardian.

After learning that Mr. Billiu was no longer employed by Guardian, the undersigned then sent the letter attached hereto as Ex. 3 to Mr. Billiu's last known home address. In this respect, Ex. 3 is a letter sent by the undersigned to Mr. Billiu on July 15, 2004 (at his last known home address), regarding the oath/declaration and assignment for this case. The oath/declaration and assignment were attached to this letter as sent on July 15, 2004.

After hearing nothing from Mr. Billiu in response to the letters of July 1 and July 15, 2004, the undersigned sent him another letter on September 14, 2004. In this respect, Ex. 4 is a letter sent by the undersigned to Mr. Billiu on September 14, 2004 (again, at his last known

home address), regarding the oath/declaration and assignment for this case. The oath/declaration and assignment, as well as a copy of the application as filed March 19, 2004, were attached to this letter as sent on September 14, 2004.

The undersigned has heard nothing from Mr. Billiu in response to the letters sent to him on July 1, July 15 and September 14, 2004 (Exs. 2-4). However, as mentioned above, the other three inventors have signed the declaration, and copies of same have been filed herewith.

In view of Mr. Billiu's apparent refusal to sign the oath/declaration and assignment, applicant hereby petitions under 37 CFR §1.47 to proceed with prosecution of the instant application. While Mr. Billiu has apparently refused to sign, the executed declaration/assignment from the other three inventors has/have been filed. The petition fee pursuant to 37 CFR §1.17(h) is attached hereto.

The last known address of Mr. Billiu is set forth on his unexecuted oath/declaration attached as part of Exs. 2-4. In particular, his last known address is:

Mr. Andrew Billiu
31410 Rocky Crest
Farmington Hills, MI 48336

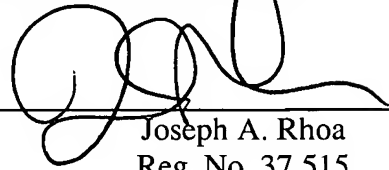
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DANIEL, et al.
Appl. No. 10/804,202
October 26, 2004

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

A handwritten signature in black ink, appearing to read 'J. Rhoa', written over a horizontal line.

Joseph A. Rhoa
Reg. No. 37,515

JAR:caj
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

Joseph Rhoa - final patent application re slider (w/updated bulb seal drawings)

From: Joseph Rhoa
To: abilliu@guardian.com; bhimebaugh@guardian.com; kdaniel@guardian.com;
mschreiner@guardian.com
Date: 3/18/2004 3:36 PM
Subject: final patent application re slider (w/updated bulb seal drawings)

Inventors:

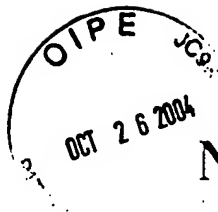
Kevin, thanks for the updated bulb seal drawings. They've been included as Figs. 16(a)-(c) in the application. See the pdf file attached hereto re Fig. 16.

The application has been modified also to discuss the new bulb seal drawings. This application is in final form, and will be filed tomorrow with the U.S. Patent Office unless I should hear from any of you by noon tomorrow.

The inventors are: K. Daniel, B. Himebaugh, M. Schreiner, A. Billiu. Let me know if this is incorrect in any way.

Thanks, and let me know if anyone has any questions.

Joe Rhoa



Nixon & Vanderhye PC

ATTORNEYS AT LAW

8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22201-4714

July 1, 2004

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4043
e-mail: jar@nixonvan.com

*UNDERSIGNED LICENSED ONLY IN MD
AND PRACTICE LIMITED TO FEDERAL LAW

Andrew T. Billiu
GUARDIAN INDUSTRIES CORP.
23751 Amber Avenue
Warren, Michigan 48089

Subject: *U.S. Patent Application of DANIEL et al.*
For: "Flush-Mounted Slider Window for Pick-Up
Truck"
Serial No. 10/804,202
Filed: March 19, 2004
Our Ref.: 3691-618

Dear Andy:

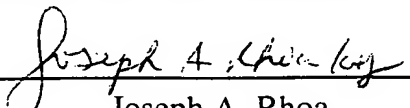
Please be advised that the above-identified application was filed with the U.S. Patent and Trademark Office. Please find enclosed herewith a Declaration and Assignment for your review.

If all is in order, please execute the declaration and assignment, and return the executed copies to me by **July 19, 2004** so that I may file them with the U.S. Patent and Trademark Office. Also, with respect to the assignment, please also have it *witnessed*.

Please let me know if you should have any questions with regard to the above.

Very truly yours,

NIXON & VANDERHYE P.C.



Joseph A. Rhoa

JAR/caj
Enclosures

RULE 63 (37 C.F.R. 1.63)
INVENTORS DECLARATION FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FLUSH-MOUNTED SLIDER WINDOW FOR PICK-UP TRUCK

the specification of which (check applicable box(es)):

☐ is attached hereto
☒ was filed on March 19, 2004 as U.S. Application Serial No. 10/804,202 (Atty. Dkt. No. 3691-618)
☐ was filed as PCT International application No. on
 and (if applicable to U.S. or PCT application) was amended on

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed or, if no priority is claimed, before the filing date of this application:

Application Number	Country	Day/Month/Year Filed
--------------------	---------	----------------------

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.

Application Number	Day/Month/Year Filed
--------------------	----------------------

I hereby claim the benefit under 35 U.S.C. 120/365 of all prior United States and PCT international applications listed above or below.

Prior U.S./PCT Application(s): Application Serial No.	Day/Month/Year Filed	Status: patented pending, abandoned
10,653,412	03 September 2003	Pending

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. And on behalf of the owner(s) hereof, I hereby ask that all correspondence in this matter be directed to:

Customer Number: 23117

4.. Inventor's Signature: ☒ Inventor: Andrew T. BILLIU Date: ☒
 (first) MI (last) U.S.
 Residence: (city) Farmington Hills (state/country) Michigan (citizenship)
 Mailing Address: 31410 Rocky Crest, Farmington Hills, Michigan
 (Zip Code) 48336

[X] See attached sheet(s) for additional inventor(s) information!!

ASSIGNMENT FOR PATENT APPLICATION
(All Rights)

WHEREAS Kevin V. DANIEL of 309 Eastland Acres, Lancaster, KY 40444, Robert V. HIMEBAUGH of 14247 County Road 205, Findlay, OH 45840, Mark A. SCHREINER of 272 Hancock Street, Tiffin, OH 44883, and Andrew T. BILLIU of 31410 Rocky Crest, Farmington Hills, MI 48336, (hereinafter ASSIGNORS), have made an invention entitled **FLUSH-MOUNTED SLIDER WINDOW FOR PICK-UP TRUCK** for which a so-entitled application for Letters Patent of the United States was filed on **March 19, 2004** under Serial No. **10/804,202**;

WHEREAS, Guardian Industries Corp. (hereinafter ASSIGNEE), a corporation of the State of Michigan, having an office and place of business at 2300 Harmon Road, Auburn Hills, Michigan, 48326-1714, is desirous of acquiring an interest therein;

NOW, THEREFORE, for valuable consideration the receipt and sufficiency of which are hereby acknowledged, the below listed of said ASSIGNORS by these presents, having sold, assigned and transferred, hereby sells, assigns, and transfers unto the said ASSIGNEE, its successors, assigns, and legal representatives, ASSIGNORS' entire right, title and interest in the United States of America and all foreign countries, in and to the invention as described in the aforesaid application, and to the said application and to all subsequent applications based thereon including any and all continuations, divisions, reissues, and substitutes of said application, and all resulting patents, together with the right of priority under the International convention for the Protection of Industrial

Property, Inter-American Convention Relating to Patents, Designs and Industrial Models, and any other international agreements to which the United States of America adheres, and the below listed ASSIGNOR(S) hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE, for its interest as ASSIGNEE, its successors, assigns, and legal representatives. It is understood and agreed that ASSIGNEE'S attorneys Nixon & Vanderhye P.C. have represented only ASSIGNEE and will continue to represent only ASSIGNEE with respect to this invention;

ASSIGNORS hereby agree to execute any papers by ASSIGNEE, its successors, assigns, and legal representatives, deemed essential to ASSIGNEE's full protection and title in and to the invention hereby transferred; and

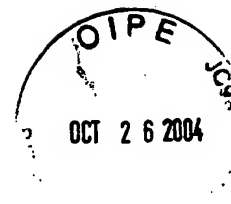
ASSIGNORS hereby agree, upon request of ASSIGNEE, and without further remuneration, to execute any and all papers desired by ASSIGNEE, for the filing and granting of foreign applications and the perfecting of title thereto in ASSIGNEE.

AGREED and executed as noted below:

✓ _____
Date

✓ _____
Andrew T. BILLIU

✓ _____ *Witnessed by:*



Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22201-4714

July 15, 2004

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4043
e-mail: jar@nixonvan.com

*UNDERSIGNED LICENSED ONLY IN MD
AND PRACTICE LIMITED TO FEDERAL LAW

Andrew T. Billiu
31410 Rocky Crest
Farmington Hills, Michigan 48336

Subject: *U.S. Patent Application of DANIEL et al.
For: "Flush-Mounted Slider Window for Pick-Up
Truck"
Serial No. 10/804,202
Filed: March 19, 2004
Our Ref.: 3691-618*

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Joseph A. Rhoa

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Customer Number: 23117

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Inventor's Signature: ✓

Inventor:

Andrew
(first)

T.
MI

BILLIU
(last)

Date: ✓

U.S.
(citizenship)

Residence: (city)

Farmington Hills

(state/country)

Michigan

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BEST AVAILABLE COPY

Nixon & Vanderhye PC.

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8TH FLOOR
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ARLINGTON, VIRGINIA 22201-4714

September 14, 2004

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Customer Number: 23117

4..

Inventor's Signature: ✓

Inventor:

Andrew
(first)

T.
MI

BILLIU
(last)

Date: ✓

U.S.

(citizenship)

Residence: (city)

Farmington Hills

(state/country)

Michigan

Mailing Address:

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(Zip Code)

48336

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AGREED and executed as noted below:

✓

Date

Andrew T. BILLIU

✓

Witnessed by: